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26 Corporation, and Oracle EMEA Limited

27 UNITED STATES DISTRICT COURT

28 NORTHERN DISTRICT OF CALIFORNIA

19 SAN FRANCISCO DIVISION

20 ORACLE USA, INC., *et al.*,

21 CASE NO. 07-CV-01658 PJH (EDL)

22 Plaintiffs,

23 v.
24 **STIPULATION TO PERMIT
25 PLAINTIFFS TO FILE DRAFT
26 STIPULATION UNDER SEAL**

27 SAP AG, *et al.*,

28 Defendants.

1 Pursuant to Local Rules 7-11(a) and 79-5(b)-(c), Plaintiffs Oracle USA, Inc., Oracle
2 International Corporation, and Oracle EMEA Limited (collectively, "Oracle") and Defendants
3 SAP AG, SAP America, Inc., and TomorrowNow, Inc. (collectively, "Defendants," and with
4 Oracle, the "Parties") jointly submit this stipulation to permit Oracle to file Exhibit A to the
5 Parties' February 9, 2009 Joint Discovery Conference Statement ("Statement") under seal.

6 The requested relief is necessary and narrowly tailored to protect the alleged
7 confidentiality of the materials put at issue by the Parties' Statement, until such time as the Court
8 rules on the confidentiality of the relevant subject matter.

9 Specifically, Exhibit A to the Statement contains information designated by Defendants
10 as "Confidential Information" and "Highly Confidential Information – Attorneys' Eyes Only,"
11 pursuant to the Protective Order entered in this action on June 6, 2007. Moreover, Defendants
12 contend that Exhibit A to the Statement reflects a "snapshot" of the Parties' inchoate
13 compromise discussions under Fed. R. Evid. 408 regarding PeopleSoft HRMS environments and
14 updates/fixes and should be protected accordingly.

15 Accordingly, the Parties, through their respective counsel of record, stipulate that Oracle
16 be permitted to file Exhibit A to the Statement under seal. The Parties further agree that Oracle
17 reserves its rights to challenge the confidentiality of the information filed under seal pursuant to
18 this Stipulation and understand that this Stipulation is not intended to relieve Defendants'
19 burden, under Local Rule 79-5(d), of supporting the confidentiality of the documents at issue.

20 The Parties agree that neither the act of filing nor the filed documents shall be construed as a
21 waiver of confidentiality designation or other protection (under Fed. R. Evid. 408 or otherwise)
22 with respect to documents, transcripts, or other information referred to in, or that serve as the
23 basis for, the allegations or arguments made therein.

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1 IT IS SO STIPULATED.
2 DATED: February 9, 2009

BINGHAM McCUTCHEN LLP

3 By: /s/ Bree Hann

4 Bree Hann
5 Attorneys for Plaintiffs
6 Oracle USA, Inc., Oracle International
7 Corporation, and Oracle EMEA Limited

8 In accordance with General Order No. 45, Rule X, the above signatory attests that
9 concurrence in the filing of this document has been obtained from the signatory below.

10 DATED: February 9, 2009

JONES DAY

11 By: /s/ Jason McDonell

12 Jason McDonell
13 Attorneys for Defendants
14 SAP AG, SAP America, Inc., and
15 TomorrowNow, Inc.

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